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SUBJECT: DARFUR PLANNED COMPENSATION SCHEME FAULTY

REF: A.) KHARTOUM 816, B.) KHARTOUM 817

11. (SBU) SUMMARY. Compensation is the number one issue raised by virtually every segment of society in Darfur. To implement components of the Agreement dealing with reparations and compensation, the Darfur Peace Agreement (DPA) established the Darfur Compensation Commission (DCC). Although it was established in August 2007, Khartoum has not released funding for the Commission and it is not yet accepting claims. If the process is not implemented in a fair and transparent manner, the issue threatens to deepen the Darfur conflict and possibly even derail future political progress. The DCC's complicated process for adjudicating claims, coupled with its obvious political agenda, make it unlikely that it will contribute to reconciliation absent both reform and technical assistance. See recommendation - para. 8. END SUMMARY.

The Mechanics of Compensation

12. (SBU) Although not yet fully functional, the DCC has been operational since August 2007. Since then, the Commission's 180 employees have undertaken preparations to start compensation activities, such as developing the claim form to be distributed to victims who are entitled to make a compensation claim. Individuals will be limited to one claim per person, and must detail all losses in that one claim. DCC teams will investigate and verify claims, talking to tribal leaders to confirm assertions, and taking sworn testimony from claimants and other witnesses. The types of losses that will be covered by the Commission include loss of life, property, and livestock. The Commission's Executive Director claims to have "consulted other countries' methods" in developing their own plan, and thinks that "the DCC has covered 90% of the possible cases."

13. (SBU) Claims will be evaluated on a case by case basis, using tribal administration principles and records, and awards will vary accordingly. "The price of a horse is different throughout Darfur," the Director explained, "and there are many different types." Due to organizational weaknesses, including overstaffing, a claim filed with the Compensation Commission will be "investigated" or "evaluated" by at least three departments before a determination is made. The DCC will only consider claims from civilians - generally IDPs and refugees. The Darfur Security Arrangements Implementation Commission, which has not yet begun operations, will deal with issues affecting the military and armed movements, but will also have the ability to recommend individual cases to the Compensation Commission for consideration.

The Politics of Compensation

14. (SBU) The DCC, like most organs of the Transitional Darfur

Regional Authority (TDRA), is led by Sudanese Liberation Army/Minni Minawi (SLA/MM) relatives and close associates. The DCC Director is clearly eager to begin handing out compensation awards, and wants to begin working as soon as funds are received from Khartoum. When asked whether that was wise, or even feasible, considering that there was no real ceasefire in place and losses were sure to continue, the Director noted predictably, given his SLA/MM affiliation, that "we are going to start in SLA-MM areas and other places that are secure, like IDP camps." When there is better x5Q5QQQe commission could expand its work. (Note: SLA/MM areas, particularly in North Darfur, are arg5!zi(SBU) Senior DCC leadership complain bitterly that Khartoum has not released the promised funding for them to start compensation activities, but considering their obvious political agenda, the delay may actually be an opportunity. Compensation is the number one issue raised by virtually every segment of society. Fortunately, conflicts between tribes and groups in Darfur don't appear to run deep, and most Darfuris agree that if compensation is done properly as part of a political solution (i.e., a ceasefire and political agreement that hold), reconciliation is possible.

16. (SBU) Unfortunately, it does not appear that the DCC is on the right path, neither in terms of its approach nor in terms of its agenda. Establishing time consuming case by case investigations and multiple layers of bureaucracy in the claims process decreases transparency and increases the possibility for arbitrary or politically motivated compensation awards. In addition, the

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Commission's desire to take care of its own first (i.e. SLA/MM), and then worry about leftovers for other groups later, risks undermining the commission's credibility and alienating large sectors of the public. There is also a very real possibility that the commission will run out of funds before compensation has been completed, leaving SLA/MM to benefit at the expense of other Darfuris. If the commission continues with this plan of action, it actually stands to deepen the conflict and possibly even derail the political process.

Comment and Recommendation

17. (SBU) COMMENT: Although the UN has extensive experience in transitional justice and rule of law issues, and the Office of the High Commissioner for Human Rights just released a comprehensive report on reparations, UNAMID has neither the technical skills on the ground, nor the personnel to focus on this issue. The DCC has said that it wants to meet with local and international NGOs, and if properly packaged, for example in the cloak of "capacity building," is open to partnerships.

18. (SBU) RECOMMENDATION: Post recommends that, as part of the broader dialogue on TDRA reform, the issue of compensation specifically be raised as the highest priority in an appropriate donor forum (ref B). In addition, we should push the TDRA and UNAMID to consult transitional justice experts, like the International Center for Transitional Justice, to ensure that any compensation scheme meets minimal fairness and transparency standards before the commencement of any compensation activities.

POWERS